

February 1, 2011

UNITED STATES COURT OF APPEALS

Elisabeth A. Shumaker
Clerk of Court

TENTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CHARLES THUNEHORST,

Defendant - Appellant.

No. 10-8065

(D. Wyoming)

(D.C. No. 2:09-CR-00355-ABJ-6)

ORDER AND JUDGMENT*

Before **KELLY**, **HARTZ**, and **HOLMES**, Circuit Judges.

Charles Thunehorst's sole issue on appeal is a challenge to his sentence. His opening brief, submitted on November 1 and filed on November 19, 2010, argues that the district court improperly construed 18 U.S.C. § 924(c)(1)(A).

On November 15, however, the United States Supreme Court rejected the same argument in *Abbott v. United States*, 131 S. Ct. 18 (2010). Mr. Thunehorst

*After examining the briefs and appellate record, this panel has determined unanimously to honor the parties' request for a decision on the briefs without oral argument. See Fed. R. App. P. 34(f); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

concedes in his reply brief that *Abbott* “squarely rejected claims identical to those made by Thunehorst in this case.” Aplee. Reply Br. at 1.

Accordingly, we AFFIRM the judgment below.

ENTERED FOR THE COURT

Harris L Hartz
Circuit Judge